IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 1983 of 2006

JAITDAN

V/S

STATE & ORS.

Mr. VK MATHUR, for the appellant / petitioner

Date of Order : 26.4.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

The petitioner seeks a direction for keeping the departmental proceeding in abeyance till conclusion of criminal trial pending in the court of Chief Judicial Magistrate, Pali.

The case of the petitioner is that the allegations constituting charges in the departmental proceedings and the allegations in the criminal case are exactly identical and, therefore, if departmental inquiry proceeds, his defence in criminal case will be prejudiced. Learned counsel relied upon a judgment of Hon'ble Supreme Court in AIR 2005 SC 1406.

I have considered the submissions made by learned counsel for the petitioner. The Hon'ble Supreme Court has held that there cannot be no straight jacket formula as to

in which case the departmental proceedings are to be stayed. As there may be cases where the trial of the case gets prolonged by the dilatory method adopted by delinquent official. It cannot be permitted to, on the one hand,prong criminal case and at the same time contend that the departmental proceedings should be stayed on the ground of pendency of the criminal case. It has been further held that each case requires to be considered in the back-drop of its own facts and circumstances. There would be no bar to proceed simultaneously with departmental enquiry and the trial of the criminal case unless the charge in the criminal trial is of grave nature inovlving complicated questions of fact and law.

Considering the observation of the Hon'ble Supreme Court, since it was found that the challan had been filed way back in the Year 2004, learned counsel for the petitioner was directed to produce the certified copies of the criminal case and from the perusal of the order sheets it transpires that the charges were framed on 03.03.2005 thereafter prosecution evidence could not be recorded for one reason or the other likely presiding officer being not available or the witnesses have not been summoned, however, on 25.03.2006 as many as four prosecution witnesses were present but then as it appears from the order sheet dated 25.03.2006 that the court was requested not to record the evidence as the parties are inclined to arrive at the amicable settlement, therefore, the case was adjourned to

21.04.2006 binding down the witnesses them and also stipulated that if on that date a compromise is not arrived at evidence of these witnesses shall be recorded.

It is not shown by learned counsel as to whether compromise has been arrived at or not and as to whether the evidence of these witnesses has been recorded or not. As I find as per Annexure 2 that these four witnesses are the star witnesses and, therefore, it is reasonable for me to assume that either the matter must have been compromised or the evidence of these witnesses must have been recorded on 21.04.2006. In that view of the matter, in either situation, I do not find any justification keeping the departmental proceedings in abeyance. In any case, even if the compromise was not enter into and still the evidence of these four witnesses are yet to be not recorded on 21.04.2006 even then in view of the conduct of the petitioner in not allowing to record the evidence of the witnesses who were present on 25.03.2006 by requesting for compromise, also not inclined to stay the departmental proceedings. The writ petition is, therefore, dismissed summarily.

[N.P.GUPTA],J.

/mamta/